



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

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September 1, 2015

Ms. Kristine Zayko
Deputy General Counsel
Office of the General Counsel
Michigan State University
426 Auditorium Road, Room 494
East Lansing, Michigan 48824

Re: OCR Docket # 15-11-2098 and #15-14-2113

Dear Ms. Zayko:

The U.S. Department of Education (the Department), Office for Civil Rights (OCR), has completed its investigation into the above-referenced complaints filed against Michigan State University (the University). OCR investigated whether the University failed to promptly and equitably respond to complaints, reports, and/or incidents of sexual harassment and sexual violence of which it had actual or constructive notice, including the reports filed by the two complainants in the above-referenced complaints; and whether, as a result, students, including the complainants, were subjected to or continued to be subjected to a sexually hostile environment. OCR also examined whether the University failed to take appropriate action when one of the complainants reported being subjected to retaliatory harassment.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in education programs and activities operated by recipients of Federal financial assistance from the Department. Title IX also prohibits retaliation against any individual who seeks to make complaints or to enforce rights protected by this statute. As a recipient of Federal financial assistance from the Department, the University is subject to these laws. Therefore, OCR had jurisdiction to investigate these complaints.

Background

The University is located in East Lansing, Michigan and during academic year 2014-2015, had approximately 50,085 students enrolled. Of these, 38,786 were undergraduates and 11,299 were graduate and professional students. The student body is 51.5 percent female and 48.5 percent male.

OCR received the first complaint (15-11-2098) on June 9, 2011, and it alleged that the University discriminated against a student (Student A) on the basis of sex by failing to respond appropriately when Student A reported that she was sexually assaulted. It also alleged that the University failed to take appropriate action when Student A was subjected to retaliatory harassment. Finally, it alleged that the University retaliated against Student A for reporting the sexual assault when it engaged in activities to malign her character. The second complaint (15-14-2113) was received on January 29, 2014, and it alleged that the University discriminated against a University student (Student B) and others on the basis of sex when the University failed to promptly and equitably respond to complaints, reports and/or incidents of sexual violence of which it had actual or constructive notice, and, as a result, students, including Student B, were subjected to a sexually hostile environment.

OCR investigated these complaints by speaking with Student A's counsel and her parents, and by interviewing Student B. OCR also interviewed numerous University staff, including the Title IX Coordinator and two Title IX investigators, as well as the lawyer the University hired to conduct an independent investigation regarding Student A's complaint. OCR reviewed significant amounts of documentation, including information regarding the incidents involving Student A and Student B; three years of the University's sexual harassment grievance files; the University's policies and procedures regarding sexual harassment and sexual assault; a 2014 survey the University conducted of its freshman and transfer students regarding sexual harassment, sexual assault and sexual violence; and other documents related to the University's handling of incidents of sexual harassment, sexual assault, and sexual violence.

OCR also conducted an onsite campus visit, during which it invited various segments of the University community to participate in focus groups, including student athletes; sorority members; fraternity members; lesbian, gay, bi-sexual and transgender (LGBT) groups; residence hall advisors; Sexual Assault and Relationship Violence (SARV) peer educators; members of the Sexual Assault Crisis Intervention (SACI) student organization; counselors from the University's Sexual Assault Program; band members; and, students in the University's Women's Alliance. OCR offered a full day of walk-in office hours, during which students and staff were invited to come and speak to OCR in person, confidentially, about their experiences or concerns regarding the University's environment with respect to sexual harassment, sexual assault and sexual violence. OCR received input from additional students and employees, including survivors of sexual violence, who contacted OCR directly after its onsite visit. Finally, OCR reviewed statistics the University reported regarding incidents of sexual assaults in the campus area that were collected pursuant to the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act ("Clery Act") 20 U.S.C. § 1092(f).

Summary of OCR's Findings

OCR determined that the University failed to adequately notify students and employees of the name or title of the Title IX Coordinator, and the University's notice of nondiscrimination failed to indicate that inquiries could be referred to the University's Title IX Coordinator or OCR's

Assistant Secretary as the Title IX implementing regulation requires. Further, OCR determined that the University's Title IX grievance procedures, in place during the time period covered by OCR's investigation, failed to comply with the requirements of Title IX.

Taking into account all of the evidence gathered during the investigation, OCR determined that a sexually hostile environment existed for and affected numerous students and staff on campus at the University during the time period covered by OCR's investigation; and that the University's failure to address complaints of sexual harassment, including sexual violence, in a prompt and equitable manner caused and may have contributed to a continuation of this sexually hostile environment.

OCR reviewed three years of internal grievance files and found that there was information in many of the files to support that the complainants were subjected to a sexually hostile environment, and in some cases there was information to support that the University's failure to respond appropriately might have led the complainant or others to continue to be subjected to a sexually hostile environment. However, because many of the University's investigative files were incomplete, it is possible the University took additional actions that were not documented. OCR notes that the University's failure to maintain complete grievance files not only impedes OCR's investigation, but also raises a concern about whether the University's Title IX Coordinator had enough information to determine the appropriate action to take in particular cases to adequately address any harassment. Further, if individual grievances are not adequately documented it could potentially prevent the Title IX Coordinator from recognizing related incidents or patterns of incidents that need to be addressed.

In two of the grievance files OCR reviewed, both of which involved complaints of sexual harassment filed against University employees, the University's own documentation supported that a sexually hostile environment existed but the University failed to find that sexual harassment had occurred. In one of these cases, the University's documentation supported that the University's failure to respond adequately to initial complaints regarding an employee's behavior, and the employee's continued additional acts of harassment after the University failed to adequately address his behavior, led to a continuing hostile environment for a number of other employees.

OCR also determined that the University failed to provide a prompt and equitable response to complaints filed by Student A and Student B, as Title IX requires. OCR found insufficient evidence to conclude that Students A or B continued to be subjected to a sexually hostile environment as a result of the University's failure to provide them with a prompt and equitable response to their complaints. Further, OCR found insufficient evidence to support Student A's claim that the University failed to take sufficient action after she was allegedly subjected to retaliatory harassment by the accused students. OCR also found Student A's claim that the University retaliated against her to be untimely.

On August 28, 2015, the University provided OCR with a signed resolution agreement to resolve the OCR complaints filed by Student A and Student B and to address the other Title IX violations and compliance issues OCR identified; including issues OCR identified with respect to the University's handling of Title IX complaints and its general climate.

Legal Authority

The regulation implementing Title IX, at 34 C.F.R. § 106.31(a), provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance. Specific obligations are set forth at 34 C.F.R. § 106.31(b), including a recipient's obligation to ensure that its students are not denied or limited in their ability to participate in or benefit from the recipient's programs or activities on the basis of sex.

Sexual harassment is a form of sex discrimination prohibited by Title IX. Hostile environment sexual harassment is unwelcome conduct of a sexual nature that is sufficiently serious that it denies or limits a student's ability to participate in or receive the benefits, services, or opportunities of a school's program. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence. Sexual harassment of a student creates a hostile environment if the conduct is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the recipient's program.

In determining whether this denial or limitation has occurred, OCR considers all relevant circumstances, including the degree to which the conduct affected one or more students' education; the type, frequency, and duration of the conduct; the identity of and relationship between the alleged harasser and the subject or subjects of the harassment; the number of individuals involved; the age and sex of the alleged harasser and the subject of the harassment, the size of the school, location of the incidents, and the context in which they occurred; other incidents at the school; and whether there were also incidents of gender-based but non-sexual harassment. A sexually hostile environment may deny or limit a student's ability to receive the benefits, services, or opportunities of a school's program even if there are no tangible effects, e.g., a drop in the student's grades.

The more severe the conduct, the less the need to show a repetitive series of incidents; this is particularly true if the harassment is physical. A single or isolated incident of sexual harassment may, if sufficiently severe, create a hostile environment. Moreover, a series of incidents at the school, not involving the same students, could -- taken together -- create a hostile environment, even if each by itself would not be sufficient. When responding to reported sexual harassment, a school must take immediate and appropriate action to investigate or otherwise determine what occurred. The specific steps in a school's investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. In all cases, however, the inquiry should be prompt, thorough and impartial.

If there is a dispute about whether harassment occurred or whether conduct was welcome, in cases where it is appropriate to consider whether the conduct would be welcome, determinations should be made based on the totality of the circumstances such as: statements made by any witnesses to the alleged incident; evidence about the relative credibility of the alleged harassed

student and the alleged harasser (e.g., the level of detail and consistency of each person's account should be compared to one another and to the existence or lack of corroborative evidence); evidence that the alleged harasser has been found to have harassed others; evidence that the alleged harassed student has made false allegations against other individuals; evidence of the allegedly harassed student's reaction or behavior after the incident such as witness accounts from individuals who saw the student immediately after the incident or evidence of significant changes in the student's behavior in the weeks after the incident; evidence about whether the allegedly harassed student filed a complaint or took other action to protest the conduct after it had occurred (note that failure to immediately report may not be indicative that the alleged harassment did not occur); and any other contemporaneous evidence.

A school should take interim measures promptly once it has notice of a harassment allegation. For instance, if a student alleges that he or she has been sexually assaulted by another student, the school may decide to immediately place the students in separate classes to prevent further harassment while the complaint is investigated.

If a student sexually harasses another student, the harassing conduct is sufficiently serious to deny or limit the student's ability to participate in or benefit from the program, and the school knew or reasonably should have known about the harassment, the school is responsible for taking immediate effective action reasonably calculated to end the harassment, eliminate any hostile environment, prevent the recurrence of the harassment and, as appropriate, remedy its effects. Appropriate steps to end harassment may include separating the accused harasser and the target, or taking disciplinary action against the harasser. These steps should not penalize the student who was harassed. In addition, depending on the extent of the harassment, the school may need to provide training or other interventions not only for the perpetrators but also for the larger school community to ensure that all students and school staff can recognize harassment if it recurs and know how to respond. A school may also be required to provide additional services to the student who was harassed in order to address the effects of the harassment, including when the school initially delayed in responding or responded inappropriately or inadequately to information about harassment.

Certain acts of sexual harassment, such as unwelcome sexual touching, may also be criminal in nature, in which case it may be appropriate for a school to contact law enforcement authorities. However, contacting law enforcement authorities does not relieve a school of its individual obligation to investigate and address acts of sexual harassment. The legal standards applied for criminal investigations are different than the standards applied under Title IX, and thus a school cannot rely on a police investigation to fulfill its Title IX obligations. Further, certain remedies, such as separating the student reporting the harassment from the alleged perpetrator in classes, in dining facilities, etc., can only be implemented by the school and are the school's responsibility.

OCR uses a preponderance of the evidence standard, (*i.e.*, it is more likely than not that discrimination occurred) when examining allegations of discrimination under all of the statutes it enforces, including Title IX, and in its fund termination administrative hearings. A preponderance of the evidence standard is therefore the appropriate standard for investigating

allegations of sex discrimination, including sexual harassment or sexual violence. In order for a school's grievance procedures to be consistent with Title IX standards, the school must use a preponderance of the evidence standard.

Finally, a school should take steps to stop further harassment and prevent any retaliation against the person who made the complaint (or was the subject of harassment) or against those who provided information as witnesses. At a minimum, the school's responsibilities include making sure that the harassed students know how to report any subsequent problems, conducting follow-up inquiries to see if there have been any new incidents or any instances of retaliation, and responding promptly and appropriately to address continuing or new problems.

The regulation implementing Title IX, at 34 C.F.R. § 106.9(a), requires each recipient to implement specific and continuing steps to notify applicants for admission and employment, students, employees, sources of referral of applicants for admission and employment, and all unions and professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of sex in the educational program or activity which it operates and that it is required by Title IX not to discriminate in such a manner.

In addition, the regulation implementing Title IX, at 34 C.F.R. § 106.8(a), requires a recipient to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX and its implementing regulation, including the investigation of any complaint communicated to such recipient alleging its noncompliance with Title IX or alleging any actions which would be prohibited by Title IX. The recipient must notify all of its students and employees of the name, office address, and telephone number of the employee or employees appointed. Additionally, OCR policy states that recipients should provide the electronic mail (email) address of the designated Title IX coordinator.

Further, the regulation implementing Title IX, at 34 C.F.R. § 106.8(b), requires a recipient to adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any actions prohibited by Title IX and its implementing regulation. OCR has identified a number of elements in evaluating whether a recipient's grievance procedures are prompt and equitable, including whether the procedures provide for: (1) notice of the procedure, including where complaints may be filed, that is easily understood, easily located, and widely distributed; (2) application of the procedure to complaints alleging discrimination or harassment carried out by employees, other students, or third parties; (3) adequate, reliable, and impartial investigation of complaints, including an opportunity to present witnesses and evidence; (4) designated and reasonably prompt timeframes for the major stages of the complaint process; (5) notice to the parties of the outcome of the complaint (both parties must be notified, in writing, about the outcome of both the complaint and any appeal); and (6) an assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

In addition to the factors discussed above, OCR also examines:

- whether the University provides for steps to protect the complainant as necessary, including interim steps before the final outcome of the University's investigation (e.g., no

contact order; change in academic or living situations as appropriate with minimum burden on the complainant; counseling; health and mental services; escort services; academic support; the ability to retake a course or withdraw without penalty);

- if the procedures state the standard for review, the procedures must state that the preponderance of the evidence standard will be used for investigating allegations of sexual harassment or violence;
- whether the University has policies and procedures to protect against retaliatory harassment;
- if the procedures allow the parties access to information used at a hearing, whether the procedures provide similar and timely access to both parties;
- if the procedures allow the parties to have a lawyer or other representative at a hearing, whether the procedures provide an equal opportunity to both parties and apply equal restrictions to the ability of the lawyers/representatives to speak or otherwise participate;
- if the procedures allow for an appeal of the findings and/or remedy, whether the procedures provide an equal opportunity to appeal for both parties;

OCR will also examine whether the recipient school follows the best practices discussed below:

- the procedures should include an adequate definition of sexual harassment, including sexual violence, with examples;
- the procedures should not require the complainant to work out an issue directly with the accused; sexual assault complaints are not to be mediated even on a voluntary basis;
- if the procedures include an informal process, the procedures should notify the parties of the right to end the informal process and begin a formal process at any time;
- the procedures should notify the complainant of the right to proceed with a criminal investigation and a Title IX complaint simultaneously;
- if the procedures allow for cross-examination of the parties, OCR strongly discourages allowing parties to personally question or cross-examine each other during a hearing;
- the University must not allow conflicts of interest (real or perceived) by those handling the procedures;
- the University should inform students at regular intervals of the status of the investigation;
- the procedures should include a range of potential remedies and sanctions; and

- the University should respond appropriately to any requests for confidentiality for the complainant/victim; i.e., take steps to investigate and respond to complaints consistent with the complainant's requests for confidentiality, but should inform the complainant that its ability to respond may be limited in the event of such a request.

Further, OCR has identified the following requirements:

- the University must maintain documentation of any proceedings;
- the University must provide training for those implementing grievance procedures (Title IX coordinator, investigator, adjudicators). This includes training in:
 - handling of complaints of sexual harassment/violence
 - the school's grievance procedures; and
 - confidentiality requirements.

Regardless of whether harassment occurred, a school violates the regulation implementing Title IX if it does not have procedures in place that provide for the prompt and equitable resolution of student and employee complaints alleging any actions prohibited by Title IX and its implementing regulation.

Title IX does not require a school to adopt a policy specifically prohibiting sexual harassment or to provide separate grievance procedures for sexual harassment complaints. However, its nondiscrimination policy and grievance procedures for handling discrimination complaints must provide effective means for preventing and responding to sexual harassment. Thus, if because of the lack of a policy or procedure specifically addressing sexual harassment, members of the school community are unaware of what kind of conduct constitutes sexual harassment or that such conduct is prohibited sex discrimination, a school's general policy and procedures relating to sex discrimination will not be considered effective.

A grievance procedure applicable to sexual harassment complaints cannot be prompt or equitable unless members of the school community are aware of information such as, its existence, how it works, and how to file a complaint. Distributing the procedures to administrators, or including them in the school's administrative or policy manual, may not by itself be an effective way of providing notice; as these publications are usually not widely circulated to and understood by all members of the school community.

Factual Information

- **Title IX Coordinator and Notice of Nondiscrimination**

The regulation implementing Title IX, at 34 C.F.R. § 106.8(a), requires a recipient to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX. During the times relevant to OCR's investigation, the University designated the Director of the University's Office of Inclusion and Intercultural Initiatives (I3) as the University's Title IX Coordinator. The University published her name, office address, phone number and email address on its website. Information regarding the Title IX Coordinator,

including her contact information, was also listed in the University's Revised Sexual Harassment Policy, the University's Student Handbook, and various employee handbooks; all of which are all online. Based on the above, OCR determined that the University complied with the regulation implementing Title IX, at 34 C.F.R. § 106.8(a), with respect to designating a Title IX Coordinator.

The regulation implementing Title IX, at 34 C.F.R. § 106.9(a), requires each recipient to implement specific and continuing steps to notify relevant individuals that it does not discriminate on the basis of sex in the educational program or activity which it operates and that it is required by Title IX not to discriminate in such a manner. The University's Notice of Nondiscrimination, used by the University's I3 Office, provides that the University prohibits discrimination on a number of bases, including sex, in its programs and activities. With respect to sex, it specifically references Title IX and states: "Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in education programs or activities and extends to employment and admission to institutions that receive Federal financial assistance." It also states that OCR is the agency charged with enforcing Title IX. The Notice of Nondiscrimination states that individuals who want additional information or assistance should contact the I3 office; and lists the I3 office's address, phone number, fax number, website address, and e-mail address. However, the notice does not provide the name or title of the Title IX Coordinator. The notice also does not state that inquiries may be referred to OCR. According to the University's Title IX Coordinator, the University's Notice of Nondiscrimination is posted in buildings all over campus. She stated that it also appears on the University's website, in its publications, and in contracts the University enters into with outside parties.

In light of the foregoing, as the University's Notice of Nondiscrimination does not indicate that inquiries may be referred to the Title IX Coordinator or OCR's Assistant Secretary, OCR finds that the University's Notice of Nondiscrimination does not comply with the requirements of 34 C.F.R. § 106.9(a). Further, as the Notice of Nondiscrimination does not provide the name or title of the Title IX Coordinator, OCR finds that the University has not adequately notified students and employees of contact information for the Title IX Coordinator as required by 34 C.F.R. § 106.8(a).

- **Title IX Grievance Procedures**

The Title IX regulation, at 34 C.F.R. § 106.8(b), requires recipients to adopt and publish prompt and equitable procedures to address Title IX complaints.

In the fall of 2010, when Student A notified the University that she had been sexually assaulted, but declined to file a formal complaint, the University did not have a system for addressing potential Title IX harassment incidents without a formal complaint. Moreover, the University's procedures required that a disciplinary hearing be conducted by the student judicial body before any action could be taken against a student accused of sexual harassment. The student judiciary hearings required the complainant to testify on his or her own behalf in front of the alleged harasser; and, required the complainant to present witnesses and other evidence to support his or her case against the alleged harasser. OCR became aware of her situation through media reports and also became aware of information suggesting that the University was not handling the matter

in accordance with Title IX. Thus, OCR provided some technical assistance to the University regarding its Title IX obligations, including Title IX's requirements regarding the University's policies and procedures, in the fall of 2010; and the University issued revised Title IX policies and procedures in January 2011. The complaint was then filed in June of 2011. These are the policies which OCR reviewed during its investigation and which are discussed below.¹

- ADP and Revised Sexual Harassment Policy

The University's Anti-Discrimination policy (ADP), which is posted online and in the University's student handbooks, prohibits all forms of discrimination, including sex discrimination and harassment. It contains a complaint procedure for addressing such claims; but the procedure, as written, does not require the University to investigate allegations of discrimination. Instead, the complaining party is granted a hearing before the Anti-Discrimination Judicial Board (ADJB) and is required to present evidence to prove the ADP has been violated by a preponderance of the evidence. If the ADJB finds that the ADP had been violated, it cannot impose discipline, but can recommend that *de novo* disciplinary proceedings be initiated by relevant University administrators when such actions "were known, or reasonably should have been known, to be prohibited by the policy." The ADP contains no timeframes; no provision giving the parties an opportunity to present witnesses and relevant evidence; no provision stating that written notice of the outcome will be provided to the parties; and, no assurance that the University will take steps to prevent recurrence of harassment and to correct its discriminatory effects on the complainants and others

In response to OCR's technical assistance regarding the ADP in 2010, the University adopted Interim ADP Hearing Procedures and a Revised Sexual Harassment Policy. The Interim ADP Hearing Procedures replaced the ADJB process and the student disciplinary procedures for processing complaints of harassment carried out by students. However, all claims against employees or third parties were still covered under the regular ADP procedure. Pursuant to the Interim ADP Hearing Procedures, all complaints of harassment filed against students are investigated under the oversight of the I3 office. OCR noted that the Interim ADP Hearing Procedures deal with student discipline and only apply to allegations of harassment. Thus, from the wording of the Interim ADP Hearing Procedures, allegations of sex discrimination generally, e.g., different treatment based on sex, continue to be handled under the University's existing ADP procedures, whereby the complaining party is granted a hearing before the ADJB and is required to present evidence to prove the ADP has been violated by a preponderance of the evidence. The University, however, informed OCR that the ADJB process is no longer used and informed OCR that it intended to eliminate it from its policies.

The Revised Sexual Harassment Policy clearly states that all complaints of alleged sexual harassment are investigated under the oversight of the University's Title IX Coordinator. The Revised Sexual Harassment Policy provides that the Title IX Coordinator may initiate an investigation without a formal complaint if the University has "sufficient notice" that sexual harassment may have occurred, which is a change from the University's previous process that required a formal complaint before the University would take any action. OCR notes that the

¹ The University adopted newly revised Title IX policies in January 2015

Revised Sexual Harassment Policy only applies to complaints of sexual harassment; it does not apply to other types of sex discrimination complaints. The University's Title IX investigator informed OCR, however, that incidents of sex discrimination are also investigated by the I3 office, using the I3 complaint processing procedure.

The Revised Sexual Harassment Policy provides notice to students and employees of the procedures, including where complaints may be filed, that is easily understood; however, the procedures are not easily located on the University's website. The University informed OCR that the policies are distributed during student orientations and are available in the I3 offices and other appropriate locations on campus. The Revised Sexual Harassment Policy states that the University will address complaints of sexual harassment involving any member of the University community as well as third parties. The Revised Sexual Harassment Policy further provides that if the Title IX Coordinator finds that a student has violated the policy, the Title IX Coordinator has the authority to file a complaint with the Department of Student Life to seek disciplinary action against a student under the student disciplinary code. In those cases, the Title IX Coordinator is the complainant and the accuser is permitted to participate, or not, in the hearing at his or her own level of comfort. Under the Revised Sexual Harassment Policy, complaints against faculty and staff are also investigated under the oversight of the Title IX Coordinator; but according to the University, discipline is issued by the supervisor of the respondent, in consultation with the I3 office, human resources, and the Office of the General Counsel.

The Revised Sexual Harassment Policy states that sexual assaults and other crimes should be reported to the University's police department, regardless of whether the matter is also reported and is being investigated as sexual harassment. The policy provides the contact information for the University police.

The Revised Sexual Harassment Policy states that the investigation will be conducted in accordance with the I3 complaint processing procedures (I3 Complaint Procedures). The I3 Complaint Procedures set forth designated timeframes for the major stages of the complaint process. Specifically, the procedures provide that investigations will be completed within 90 days and that the University will have an additional 30 days to issue a written investigative report and findings. OCR does not find these timeframes to be sufficiently prompt to satisfy the requirements of Title IX.

The I3 procedures state that the investigation will be conducted in an impartial, fair and unbiased manner. The I3 Complaint Procedures state that both parties will be given an opportunity to provide any documentation, names of witnesses, and other information they deem relevant. The I3 Complaint Procedures state that both parties will be notified of the outcome of the investigation and will generally have an opportunity to view the report; however, the procedures do not specifically require that the parties be notified in writing of the outcome of the investigation. The I3 Complaint Procedures do not specifically state that investigations of sexual harassment will be conducted using a particular standard of review, e.g., preponderance of the evidence standard. Although the procedures provide for interim measures while the investigation is pending, e.g., changes to class or housing assignments, the I3 Complaint Procedures do not state that the University will take steps to minimize the burden on the victim.

The Revised Sexual Harassment Policy states that the informal resolution of any complaint is completely voluntary; and that informal resolution, such as mediation, will not be used to resolve allegations of sexual violence. The Revised Sexual Harassment Policy provides that where an investigation results in a finding that sexual harassment has occurred, the University will take remedial action, including where appropriate disciplinary action, to eliminate the harassment and prevent its recurrence. Additionally, the University added a provision stating that it may take interim measures to protect the alleged victim during an investigation, such as making changes to class or housing assignments for students or work assignments for employees.

The Revised Sexual Harassment Policy's definition of a hostile environment provides that harassment is conduct that "unreasonably interferes with an individual's work or performance in a course, program or activity" and as worded requires tangible effects on the victim, e.g., a drop in grades, to establish that harassment occurred. It makes no reference to the preponderance of the evidence standard; although according to the University the preponderance of the evidence standard is the standard that they have always used. In addition, the policy includes a footnote that the University will investigate all complaints of sexual harassment to determine if a hostile environment is present on campus even when the alleged incident occurred off campus. This seems to ignore situations where a hostile environment is created off campus at a University-sponsored event; however, the University's witnesses informed OCR that the University would investigate such incidents the same way it investigates on-campus incidents. The policy does not state that the parties will be given the opportunity to identify witnesses and other evidence as part of the investigation, and does not require the University to provide the parties with written notice of the University's decision on the grievance.

In addition, the Revised Sexual Harassment Policy does not discuss what constitutes consent to sexual conduct for purposes of examining sexual assaults; however, the University provided OCR with a checklist for examining sexual assault that the ADP Hearing Board uses, which states that there is no consent if the agreement to sexual conduct was not reasonably understood to be mutual or the agreement to have sex was not reasonably understood to be freely given. The checklist also provides that there is no consent if the respondent knew or should have known that the accuser was unconscious because of drugs, alcohol or other contributing factors; the accuser was "unaware" because of drugs, alcohol or other contributing factors; or the accuser was otherwise mentally or physically helpless because of drugs, alcohol or other contributing factors. The checklist also provides that there is no consent if consent was revoked and the sexual conduct continued.

The Revised Sexual Harassment Policy states that the review of sexual harassment complaints, including formal investigations, will be conducted confidentially to the extent permitted by law, except insofar as information needs to be disclosed so that the University may effectively investigate the matter or take corrective action.

The Revised Sexual Harassment Policy states that persons who complain about sexual harassment, or who cooperate in the University's investigation and handling of sexual harassment reports or complaints, shall not be subject to retaliation for complaining or cooperating, even if the University finds that no sexual harassment occurred. It provides that if a complainant or witness believes that she or he is being subjected to retaliation, she or he should promptly contact

the Assistant Vice President for Human Resources (staff), the Associate Provost/Associate Vice President for Academic Human Resources (faculty and academic staff), the Vice President for Student Affairs and Services (students), or the Title IX Coordinator (faculty, staff, or students).

The University uses its Interim ADP hearing procedures for adjudicating student complaints of harassment within the student judicial system. Once the complaint goes to the student judicial system, which is within the Office of Student Life, the I3 office becomes the complainant. According to the University, accusers have the option of being a co-complainant with the University, but they typically choose not to be. Even if not a co-complainant, the accuser can still participate in any hearing. Regardless of the accuser's involvement, he or she is permitted to write an impact statement and the board reviews it if and when they issue sanctions.

Once a case gets to the student judicial process, an administrator invites the respondent to come in to talk about next steps. If the respondent accepts responsibility, the administrator makes a decision regarding sanctions. According to the University, the administrators are trained on sexual harassment, sexual assault, and related matters. The respondent can deny responsibility and choose a hearing before an administrator or an ADP hearing board. In that case, the I3 office presents its case to the administrator (or the hearing board as applicable) at the hearing, and the burden is on the respondent to show that the I3 decision was arbitrary and capricious or had procedural problems. The point of the hearing is not to rehear the facts, but only to let the respondent challenge the I3 findings.

According to the University's Title IX investigator who handles student complaints, at the hearing itself, both parties are permitted to give an opening statement and then there is an opportunity for the administrator (or hearing board as applicable) to ask questions. Neither side can ask questions of each other. According to the University, the hearing board members have also been trained on the University's sexual harassment policies and the preponderance of the evidence standard by the University's general counsel's office. The hearing board/administrator has a copy of the I3 investigative report prior to the beginning of the hearing. The respondent can submit a written statement, and may bring witnesses. The I3 office, as the complainant, can present witnesses as well.

The Interim ADP procedures do not discuss whether the parties have access to information used at a hearing, nor do they discuss the right to have a representative at the hearing. The University stated that after closing statements, the impact statement is read and the hearing board (or the administrator as applicable) deliberates and must make a decision about whether to uphold the I3 finding, and if so, it must determine the appropriate sanctions. The University stated that if the administrator or hearing board believes the respondent met the burden of proof, the administrator or hearing board would have to run any decision to overturn the I3 office's decision past the University's general counsel's office first. The University indicated, however, that they have not yet had a case where the administrator or hearing board believed that the respondent met his or her burden of proof.

The decision of the ADP hearing board or administrator is issued to the parties in writing, but not to the accuser, unless he or she elected to be a co-complainant. According to the University's Title IX investigator who handles student complaints, she notifies the accuser of the outcome of

the hearing via telephone, e-mail, or both. Both parties have the right to appeal, but the accuser has no right to appeal unless he or she was a co-complainant; otherwise, the decision to appeal rests solely with the I3 office. However, the Title IX investigator stated that the I3 office always considers the accuser's preferences. The University informed OCR that there are two levels of appeal. The first level is to a Student Appeals Board and the second is to the Vice President of Student Affairs. The University stated that the University's Office of General Counsel provides training regarding Title IX to members of the Student Appeals Board and to the Vice President. The parties have five days to file an appeal with the Student Appeals Board, which then has two weeks to issue a written decision. According to the Interim ADP procedures, the grounds for appeal include that the applicable procedures were not followed, there was a conflict of interest involving a member of the hearing board, or the information presented at the hearing does not support the decision reached by the hearing board or the sanction imposed. The written appeal decision goes to both parties, i.e., the respondent and the I3 office (and the accuser if he or she is a co-complainant). Both parties have five days to appeal that decision to the Vice President. The grounds for appeal are that the applicable procedures were not followed, there was a conflict of interest involving a member of the Student Appeals board, or the information presented at the appellate hearing does not support the decision reached by the Student Appeals Board or the sanction imposed. According to the Interim ADP procedures, the Vice President "normally will issue a decision in writing within two weeks." However, the policy states that this timeframe may be extended for good cause, provided the parties are given notice of the extension and the expected date of the decision. The University informed OCR that the Vice President's decision is final.

The Title IX investigator informed OCR that it is fairly common for respondents to appeal. She stated that one of the grounds for appeal is inappropriate sanctions. She stated that sanctions are held in abeyance during appeals, but interim measures are in place throughout the appeal process. Based on OCR's review of the case files, even if a student does not appeal, any sanctions issued by an administrator or the hearing board are subject to the approval of the Vice President of Student Affairs.

The Title IX Coordinator stated that complaints against faculty and staff are also investigated by the I3 office; however, once the investigative report is completed, if the I3 office finds a violation of the University's ADP or sexual harassment policy, the matter is referred to the respondent's supervisor, who consults with human resources, the I3 office, and the general counsel's office to determine the appropriate sanctions. According to the University, there is no hearing process and employees have no right of appeal from the I3 decision; however, unionized employees may challenge procedural errors in the way the University implements the sanctions through the union's grievance process. In reviewing the employee files, however, OCR noted at least one instance where a union employee was permitted to negotiate a resolution of a sexual harassment complaint prior to the completion of the investigation.

The University informed OCR that it has two Title IX investigators to handle all of the Title IX

complaints from students and staff. Both investigators expressed that at times they have difficulty keeping up with the caseload, as the number of complaints has increased in the last couple of years.²

After reviewing the information above, OCR finds that the University has not provided a prompt and equitable grievance procedure for the resolution of student and employee complaints alleging any actions prohibited by Title IX and its implementing regulation as required by 34 C.F.R. § 106.8(b), for the reasons provided below.

With respect to complaints of sex discrimination that do not involve harassment, the University's ADP is the only process that, as written, would cover such complaints. The ADP is not a prompt and equitable grievance procedure pursuant to the regulation implementing Title IX, as it does not require the University to conduct an investigation, and instead requires each individual to prove his or her own case before the ADJB. In addition, it contains no timeframes; no provision giving the parties an opportunity to present witnesses and relevant evidence; no provision stating that written notice of the outcome will be provided to the parties; and, no assurance that the University will take steps to prevent recurrence of harassment and to correct its discriminatory effects on the complainants and others. The University has indicated that the ADP process is rarely used and that the University intends to eliminate it. Further, the University informed OCR that its current practice is for the I3 office to investigate sex discrimination claims consistent with the University's revised sexual harassment policy and its I3 complaint procedures. However, OCR finds that the University has not provided clear notice that individuals can go to the I3 office for sex discrimination claims, as the ADP itself only references the ADJB complaint process. To be clear and effective, the ADP itself must refer individuals to the I3 office, and the sexual harassment policy must be revised to clarify that it covers other allegations of sex discrimination.

OCR found that the Revised Sexual Harassment Policy provides notice to students and employees of the procedures, including where complaints may be filed, that is easily understood; however, the procedures are not easily located on the University's website. The Revised Sexual Harassment Policy applies to complaints alleging sexual harassment carried out by employees, other students, or third parties. The Revised Sexual Harassment Policy states that the investigation will be conducted in accordance with the I3 Complaint Procedures, which set forth designated timeframes for the major stages of the complaint process; however, OCR noted that the timeframe provided, i.e., 90 days to complete the investigation and an additional 30 days to issue a written investigative report and findings, is not sufficiently prompt to satisfy the requirements of Title IX. The I3 Complaint Procedures provide for an impartial, fair and unbiased investigation; and provide both parties an opportunity to provide any documentation, names of witnesses, and other information they deem relevant. However, OCR noted that neither the Revised Sexual Harassment Policy nor the I3 Complaint Procedures specifically require that the parties be notified in writing of the outcome of the investigation. With respect to

² According to the University's counsel, after OCR's onsite visit, the University hired one additional Title IX investigator, and is in the process of hiring more. On May 29, 2015, University counsel informed OCR that it is developing a stand-alone office, the Office of Institutional Equity, which will handle all equity complaints, including sexual assault complaints. Counsel stated that the new office will have a director, two senior investigators and four investigators.

appeals, the University does not provide the victim with notice of the outcome unless he or she is a co-complainant. The Revised Sexual Harassment Policy provides that where an investigation results in a finding that sexual harassment has occurred, the University will take remedial action, including where appropriate disciplinary action, to eliminate the harassment and prevent its recurrence.

OCR finds that the Revised Sexual Harassment Policy does not satisfy the requirements of the regulation implementing Title IX at 34 C.F.R. § 106.8(b). Specifically, it does not provide reasonably prompt timeframes for completing the investigation; is not easily located on the University's website; provides for interim measures while the investigation is pending, e.g., changes to class or housing assignments, but it does not state that the University will take steps to minimize the burden on the victim; does not provide for written notice of the outcome to both parties; and, the accuser is not given the same appeal rights as the accused, unless he or she chooses to be a co-complainant with the University, which most do not. Further, OCR noted that the Revised Sexual Harassment policy and its related procedures do not contain many of the other elements OCR has recommended should be part of a prompt and equitable grievance procedure. Specifically, the Revised Sexual Harassment Policy does not contain an adequate definition of sexual harassment, including sexual violence, with examples. In addition, it states that the University will investigate conduct that occurred off campus, but only to evaluate whether there is a hostile environment on campus. OCR finds that the grievance procedure therefore does not cover all potential alleged violations of Title IX, as a sexually hostile environment that exists only at a University-sponsored off-campus event or program would still need to be addressed by the University in order to comply with Title IX. Further, while the Revised Sexual Harassment Policy states that incidents of sexual assault and other crimes should be reported to the police, even if they are being investigated by the I3 office as sexual harassment, it does not otherwise indicate that individuals have the right to pursue both a criminal complaint and a complaint with the University simultaneously.

- **Handling of Criminal Complaints and Law Enforcement's Role**

OCR spoke with University police officials and the University's general counsel regarding how complaints of sexual harassment, sexual assault, and sexual violence that are initially filed with the University's police department are handled. The police staff member OCR interviewed stated that when the police department receives a complaint, such as of a sexual assault, they call in a specialized investigator who is trained to investigate allegations of sexual assault. In such cases, they assign one investigator to gather all of the evidence and work with the complainant throughout the process. The police would transport the complainant to the hospital to have a physical exam done. There are also specially trained nurses at the hospital who conduct sexual assault examinations.

He reported that the police sit down with the complainant, explain their process to him or her, and provide him or her with information regarding available resources such as the sexual assault counseling offered by the University. He said that the University police also help the complainant obtain a personal protection order against the respondent if he or she wants one, offering transportation and assistance with the paperwork.

He stated that the University police serve as the investigators for the local prosecutor's office and that the police will arrange a meeting with the complainant and the prosecuting attorney to discuss the case. He said that they request that the same prosecuting attorney be used throughout the process when the case involves a sexual assault. The prosecutor determines whether criminal charges will be pursued after reviewing the police investigation. He stated that in cases of student-on-student sexual assault, the University police strongly encourage the student to contact the I3 office and file a complaint with the University. However, he said that they cannot force students to do so. He stated that if the student will give the police permission to release his or her name, the police will contact the I3 office and the Vice President of Student Affairs' office and notify them of the incident and the student's name and other details that do not compromise the criminal case. If the student will not agree to release his or her name, the police will still contact the I3 office and the Vice President of Student Affairs and report that an incident occurred, when it occurred, and the location, but not the student's name.

OCR noted that the University's case files for several cases of alleged student-against-student sexual assault did not indicate that the University police consistently operate as described by the police department witness. For instance, a number of the files contained no information to support that one trained investigator worked with the alleged victim. Further, multiple files contained no information to support that University police provided alleged victims with information about available resources or fully assisted complainants with personal protection orders.

According to the University's counsel, criminal complaints do not affect the University's own investigation into incidents of sexual harassment, sexual assault, and sexual violence; except that the University might agree to wait a few days to start collecting evidence to give the police time to do their initial fact-finding. She stated that, otherwise, the University does not delay its internal investigation while a criminal investigation is ongoing.

The University informed OCR that it began providing the police, including the University police, the East Lansing police, and the Meridian Township Police, cards to hand out to individuals reporting sexual assault with information regarding how to file a claim with the University's Title IX Coordinator. The University provided a copy of the information that is handed out, and OCR confirmed that it provides information regarding how to file a complaint with the I3 office, and also states that the University police can contact the I3 office on the individual's behalf, with his or her permission. It provides the phone number and website address for the I3 office.

At the time of OCR's investigation, the University did not have memoranda of understanding (MOUs) with any of the local police departments.

- **Requests for Confidentiality**

According to officials in the University's I3 office, the office will attempt to honor student requests for confidentiality while investigating any complaint to the extent that it can. One of the University's Title IX investigators confirmed that the University tries to honor requests for confidentiality, but tells students that this may not be possible if the University needs to take action to prevent ongoing harassment. Further, the University stated that if a student refuses to

file a complaint or cooperate with the I3 office, as sometimes happens when the report comes from a mandatory reporter and not the student, the I3 office will still investigate the incident if it poses a safety threat to the University. However, in reviewing the University's files, OCR did not find this to be the University's practice, and noted a number of cases where no investigation was conducted in situations where the complainants failed to cooperate.

- **Training/Outreach**

- Communication with staff about the University's process and its outreach efforts

The University has a web page, www.sexualassault.msu.edu, which contains a centralized collection of information regarding sexual harassment and sexual assault; including definitions, information on reporting, links to the University's policies, FAQs, education resources, and information regarding the Title IX Coordinator and the University police.

As is discussed in more detail below, the University also has a "No Excuse for Sexual Assault" campaign through which the University has distributed posters, t-shirts, stickers, buttons, a Title IX brochure, and other items to educate and raise awareness in the University community regarding sexual harassment, sexual assault, and sexual violence. The Title IX Coordinator stated that the University's Title IX brochure on sexual harassment and sexual assault, which was developed as part of the No Excuse campaign, is distributed at just about every activity that happens on campus. The brochure discusses Title IX and its prohibition against sex discrimination, sexual harassment, sexual assault, and related retaliation. It also gives definitions for sexual harassment and sexual assault and provides information regarding where to report such incidents, providing contact information for the I3 office, the Title IX Coordinator, and the police. It also provides information regarding resources available to victims.

The Title IX Coordinator stated that the University also talks about its obligations under Title IX through numerous trainings on these topics that it makes available to staff.

- Training provided for the Title IX Coordinator and anyone investigating IX complaints

The University's Title IX Coordinator stated that she had not received any recent training from the University on Title IX, but that she keeps up to date on recent Title IX developments by reading various legal updates. She also regularly conducts Title IX training for the University community. At the time of OCR's investigation, the University had two Title IX investigators. Both reported attending recent conferences and trainings that covered Title IX and how to address sexual violence on college campuses.

- Training for faculty and staff

The University provided OCR with a list of numerous trainings on sexual harassment it has provided to its faculty and staff since January 2011; however, the University acknowledged that, with certain exceptions, the training was not mandatory. The University's Title IX Coordinator

stated that new supervisors and administrators, i.e., anyone newly given supervisory responsibilities, are required to attend training on sexual harassment. In addition, she stated that the University provides mandatory training on sexual harassment to athletics department staff in the fall of every year; including coaches, the athletic director, trainers, administrators, and other staff.

- Training for students

The University requires students to participate in two mandatory trainings specific to sexual harassment, sexual assault, and sexual violence. First, all freshman and transfer students are required to watch an on-line video called “SAFE,” which covers issues related to sexual harassment, sexual assault, and sexual violence. The University tracks which students have watched the video, and sends e-mail reminders to those who have not; however, there are no further consequences for those who do not watch the video. The University also requires freshman students to attend a workshop put on by members of the University’s Sexual Assault and Relationship Violence (SARV) program. While this training is mandatory, there are no consequences imposed on students who do not attend.

- Training for special groups – athletes, coaches, and residence hall advisors

According to the University, student athletes are required to watch the SAFE video for two consecutive years. In addition, certain athletic teams including men’s football, men’s basketball, men’s hockey, and women’s volleyball and basketball receive additional training from one of the Title IX investigators. The training covers the University’s sexual harassment policy and investigations. This is now an annual training in the fall. The University provided OCR with a copy of the materials it uses for this training. Based on the materials, the training also covers sexual assault, consent and incapacitation.

OCR noted that during the focus groups, student athletes informed OCR that all student athletes receive “Branded a Spartan” training, which covers how athletes should behave so as not to tarnish the Spartan brand. In its data response, the University provided OCR a portion of a January 2014, “Branded a Leader Student Athlete Playbook,” which the University identified as material used for student athlete training. The document provides “working definitions” of rape, statutory rape, consent (involving alcohol or drugs) and sexual assault. OCR noted that there is no definition of consent provided, other than consent when alcohol or drugs are involved. Further, the definition of consent involving alcohol or drugs states in part that “a male who engages in sexual intercourse with a woman when he knows she is under the influence of alcohol or drugs may be guilty of rape...” The definition does not discuss same-sex rape, it does not discuss potential culpability for women in opposite-sex rape, it does not discuss consent with respect to sexual assault that is not rape, and it does not provide for situations where an individual did not know but reasonably should have known that the victim was incapacitated.

OCR also noted that the definition of sexual assault states: “If you touch someone in a sexual manner (making sexual contact) and the touching is offensive to that person you have committed sexual assault. ‘Sexual contact’ is any touching of the sexual or intimate parts of a person to

arouse or to meet your sexual desire.” This definition seems to require that the touching be done to arouse or meet the perpetrator’s sexual desire, which is not the Title IX standard. The definition is also overbroad with respect to offense.

The University informed OCR that the athletic coaches now participate in mandatory sexual harassment training in the fall of every year. The University also conducts annual sexual harassment training for people in the administrative roles in the athletic department. During these trainings, one of the University’s Title IX investigators goes over the University’s policies and procedures regarding sexual harassment and sexual assault, the employees’ reporting obligations, how the University investigates incidents of sexual harassment and sexual assault, Title IX’s prohibition against retaliation, privacy issues, and possible interim measures. During OCR’s spring 2014 onsite, the athletic director, the men’s head basketball coach, and one of the assistant coaches confirmed that they now receive annual sexual harassment training, as do the basketball players.

The University informed OCR that coaches are required to report incidents of sexual assault to both the police and the I3 office. In a follow-up interview with the athletic director on February 27, 2014, he stated that the coaches know that any incidents of sexual harassment should be reported directly to the I3 office; however, in OCR’s follow-up interview with the men’s head basketball coach on February 27, 2014, he stated that he is required to report incidents of sexual harassment or sexual assault to the University’s athletic director, who would then send the report “up the ladder.” He stated that the athletic director would call the I3 office. He stated that he could call the I3 office as well; however, he did not indicate that this was mandatory.

According to the University, the residence hall staff, including resident assistants, also receive special training regarding sexual harassment and sexual assault and how to handle such incidents should they arise. This training also includes information on the University’s policies regarding sexual harassment and sexual assault. Although the University reported that it has done significant training for the residence hall assistants, OCR noted that during the residence hall focus group, the residence hall advisors who attended did not know that the I3 office handled complaints of sexual harassment. OCR noted that in reviewing a sampling of the residence hall incident reports of sexual harassment, sexual assault, and sexual violence, only a few contained any reference to referring the victim to the I3 office.

- University’s proactive efforts to prevent sexual violence

In the spring of 2013, the University began its “No Excuse for Sexual Assault” campaign on campus. The University stated that the purpose of the campaign is to educate the University community on the definition of sexual assault, to debunk common myths regarding sexual assault, to provide information on how to report sexual assault, to increase University knowledge regarding the role of the Title IX Coordinator, and to otherwise raise awareness to prevent and better respond to sexual assault.

As part of the No Excuse campaign, the University distributed posters with images and messages intended to dispel various myths regarding sexual assault. The posters contain contact

information for the University's sexual assault hotline and the University police. During the fall of 2013, the University continued the campaign; handing out shirts, stickers, buttons, and brochures with the slogan at the University's fall welcome programs, the international student resource fair, and other events, including a "Walk a Mile in Her Shoes" event put on by the University's Interfraternity Council in October 2013 that was designed to raise awareness regarding sexual assault and relationship violence. The University also developed a Facebook page for the No Excuse campaign. During OCR's investigation, the University indicated that it was planning a second phase of the campaign, which would focus on bystander intervention.

The University also put in place "Spartan help lines" that students can call for assistance with incidents of sexual assault, bias incidents, and other emergency situations. The University stated that staff distributed magnets and posters with information regarding the Spartan help lines. The University indicated that the materials have been translated into different languages such as Korean, Arabic, and Chinese. During OCR's focus groups, a number of students mentioned seeing the No Excuse campaign materials and the Spartan help line magnets. The University provided OCR with several of the No Excuse posters and a No Excuse t-shirt, and a Spartan Help line magnet.

The University also provided OCR with a copy of a "Title IX Sexual Harassment and Sexual Assault" brochure it developed as part of the No Excuse campaign. The brochure discusses Title IX and its prohibition against sex discrimination, sexual harassment, sexual assault, and related retaliation; gives appropriate definitions for sexual harassment and sexual assault; and provides information regarding where to report such incidents. The brochure also provides information regarding interim measures that might be provided; confidentiality; and, contact information for the University Counseling Center's Sexual Assault Program (including the phone number for the program's 24-hour crisis line), the Sparrow Hospital SANE (sexual assault nurse examiner) Program, the University's Olin Health Center, the University's Women's Resource Center, and the University's Safe Place, which provides services, including emergency housing, to individuals who do not wish to return home due to sexual assault or relationship/domestic violence.

On April 7, 2014, the University ran a full-page color ad in the University newspaper advertising the No Excuse campaign and encouraging students to participate in Sexual Assault Awareness Month events. The ad contained a statement, signed by the University's president, the Title IX Coordinator, and the chief of the University police, that the University is committed to addressing campus safety and sexual assault awareness.

- Resources available to complainants and respondents

The University offers various resources to students who report being subjected to sexual harassment, sexual assault, or sexual violence, including a 24-hour crisis line; the Sexual Assault Program described above that offers counselors who have been specially trained on assisting those subjected to sexual harassment and sexual assault; student support groups; and access to interim measures through the I3 office such as housing and class changes and academic support to the affected student as needed. The University also provides students with information regarding Safe Place. In addition, the University stated its police provide students reporting

sexual assault or sexual violence with investigators specially trained in sexual assault as well as assistance in obtaining a personal protection order, including providing free transportation to and from the court and assistance in filling out the relevant paperwork; although the case files reviewed and student focus groups did not support that these services are being provided as described, particularly with regard to providing an individual, trained police investigator for incidents. Finally, there is a student organization, Sexual Assault Crisis Intervention (SACI), which provides assistance and support to individuals subjected to sexual assault.

A local hospital, not affiliated with the University, has nurses who have been specially trained in examining and assisting victims of sexual assault (Sexual Assault Nurse Examiner, or SANE, nurses). All of the above resources are referenced on the University's website.

OCR's investigation revealed that students seeking counseling from the University's Sexual Assault Program counselors have at times had to wait two to four weeks before seeing a counselor. The University acknowledged that occasionally there can be a wait to see these counselors, but asserted the students can see other counselors within the counseling center. According to University staff, the University has a list of outside counselors they can refer students to, if the student has health insurance that will cover counseling services.

Students complained that at times the University did not offer assistance such as no-contact orders and academic assistance unless the complainant specifically requested it. Others complained that the University was not good at keeping students updated regarding the status of complaint investigations.

- **Student/Climate Information**

OCR held onsite focus groups for student athletes, sorority members, fraternity members, LGBT groups, residence hall advisors, SARV peer educators, members of the SACI student organization, counselors from the University's Sexual Assault Program, band members, and students in the University's Women's Alliance.

In addition to the focus groups, OCR had a full day of walk-in office hours, at which students and staff could come and speak to an OCR staff person, confidentially, about their experiences or concerns regarding the University's environment with respect to sexual harassment, sexual assault and sexual violence. In order to reach those who could not attend the focus groups or office hours, the University sent an e-mail to all students and employees providing OCR's contact information. OCR received input from additional students and employees, including survivors of sexual violence, through direct contact with OCR as a result of this outreach.

In general these interviews reflected a lack of knowledge, particularly among the students, regarding the University's Title IX policies and procedures. That expressed lack of knowledge is consistent with the flaws identified above regarding the University's notice of its policies and procedures. Most interviewees had not heard of the I3 office and did not know which University office handles complaints of sexual harassment, sexual assault, or sexual violence (other than the police for criminal matters). Many students stated that if they needed to find the University's policies and procedures regarding sexual harassment they would look on the University's

website. When asked who they would report such incidents to if they heard about them, students mainly identified the police or their resident advisor; some other responses included coaches, University counselors, the Women's Resource Center, and the Olin Health Center. The students were familiar with different campaigns that the University launched to educate students; including the No Excuse campaign, the Spartan Help Line information, and the separate safety campaign called "If you see something, say something."

The few individuals OCR spoke with who had knowledge of the University's Title IX complaint process, or had been through it, stated that the University was slow to process complaints. The reasons for delays mentioned included: inability to get in touch with the respondent; summer break; and delays in the appeals process, especially delays by the Vice President during the appeals stage. A couple of individuals also indicated that the University police are slow to process cases and need more staff.

Most of the students OCR spoke with had not experienced any incidents of sexual harassment, sexual assault, or sexual violence themselves; however, most of them knew someone who had been subjected to sexual harassment or assault while attending the University. The majority of the students described the campus as generally safe and mostly well-lit. Students informed OCR that there are emergency call phones around campus for student use.

Many students identified the fraternities as places to avoid for purposes of sexual harassment, sexual assault, and sexual violence. OCR heard from one of the focus groups that a female student had reported being raped at a fraternity the week before OCR's visit. Others stated that the fraternities and certain bars in the campus area should be avoided due to reports of students being sexually assaulted after having drugs slipped into their drinks. Some students reported that the Cedar Village Apartments, which are not University apartments but are located near campus, have a reputation for sexual assaults. Many students referenced a walkway on campus near the river (the river trail) as being routinely referred to by students as the "rape trail"; however, based on OCR's discussions with the students, none had any specific information regarding any recent attacks on the trail, and the name seems to have come from incidents that occurred many years ago (the 1970s or 1980s). Even so, a few students across focus groups stated that parts of this area are not well-lit and that students are told to avoid that area at night.

A number of students stated that the University's athletes have a reputation for engaging in sexual harassment and sexual assault and not being punished for it, because athletes are held in such high regard at the University. Based on OCR's discussions with the student athletes and University staff, the student athletes receive more training on the topics of sexual harassment and sexual assault from the University than other students; however, at least one male athlete stated that athletes may not report an incident involving a fellow athlete to the I3 office. The male athletes also referenced the "Branded a Spartan" training the athletes receive, which covers upholding the Spartan name, and stated that making a report about sexual assault might tarnish the Spartan brand; however, they stated that their response would depend on the severity of the situation.

Students in the LGBT focus group felt that incidents involving LGBT students, particularly in the dorms, are not reported and are not taken seriously. The students gave examples of

harassment against LGBT students, including anti-LGBT messages written on whiteboards in the dorms and pride flags being torn down in the dorms; however, it is unclear whether these incidents were reported to the University. The LGBT students stated that use of certain derogatory terms is widespread on campus. They also expressed concern that the University's training regarding sexual harassment and sexual assault, in particular the SARV workshop, does not adequately cover issues concerning the LGBT community.

A couple of individuals in different focus groups stated that international students are particularly at risk for incidents of sexual harassment and sexual assault, and need training that takes into account language and cultural differences. One staff member stated that international students are very unlikely to report being subjected to sexual harassment or sexual assault. The discussions with the students and staff indicated that there are many more incidents of sexual assault occurring than are being reported. In one of the focus groups, one of the student advocates reported assisting three different students who had been subjected to sexual assault at the hospital in the previous month, but noted that none of these students reported the incidents to the University. A number of others reported specific instances where friends or acquaintances had been sexually assaulted but had not reported it to the University. When OCR asked what prevents students from reporting, the responses included: fear of the perpetrator; concerns about confidentiality; fear that the respondent would not be held accountable because the accuser and/or the respondent were drinking; fear of getting in trouble; fear that no one would believe them; fear of being re-victimized or blamed for the incident; fear that no action would be taken as a result; and lack of knowledge of the reporting and investigative process.

OCR repeatedly heard that members of the University community reporting sexual assaults had challenging experiences with the police. OCR received a number of reports of University and local police mistreating individuals who reported sexual assaults by making a scene, being rude or unprofessional, being dismissive, blaming the accuser, or not following up on a complaint. During OCR's focus groups, resident assistants who attended recalled incidents in which they helped students report incidents of sexual assault to the police, and the police were rude or unprofessional to the accusers. During the focus group with the sexual assault program counselors, one recalled a situation in which the University police discouraged a student from filing a report, telling her that she should not ruin someone's life.

A member of the University student group designed to assist individuals who have been sexually assaulted stated that the University's Title IX investigator who deals with student complaints has done a good job of coordinating with advocacy groups. The individual stated that there is a Capital Area Sexual Assault Response Team which includes the University's Title IX investigator, representatives from the East Lansing police, the University police, representatives from the local hospital, SACI, and a couple of other advocacy groups. The team meets once a month to talk about issues they have as a community and how they can improve.

- Online Survey of Freshman and Transfer Students

In the spring of 2014, the University conducted a survey of its freshman and transfer students regarding sexual harassment, sexual violence, and sexual assault. Nearly 1,000 students responded to the University's survey. The majority of students (95.1%) reported that they had

not been the victim of sex discrimination, sexual harassment or sexual assault by a student, employee or a third party during the 2013-2014 academic year. The majority of students (92.5%) also reported that they had not personally witnessed any such incidents during the same time period. A significant percentage of students (34.9%) had discussed or heard other students discussing incidents of sex discrimination, sexual harassment or assault that occurred on campus or at a campus or University activity during the 2013-2014 academic year.

Pursuant to the survey results, most students (about 89%) reported receiving at least some information, training and education from the University regarding sex discrimination, sexual harassment or sexual assault. The majority also reported being either very familiar (35.2%) or somewhat familiar (46%) with the University's policies on sexual discrimination and harassment. Of the respondents, 74.9% answered "false" to the statement: "Someone can still give consent for sex if they are using alcohol or drugs." In addition, 92.3% agreed that consent for sexual conduct could be revoked at any time.

The majority of students reported that they would be very likely (61.2%) or somewhat likely (27.7%) to report if they were the subject of sexual discrimination, sexual assault, or sexual harassment; however, when asked who they would report the incident to first, less than 1% identified the I3 office. Based on the responses, students were most likely to first report the incident to the University police (30.7%), family members (15.1%), or friends/roommate (14.9%). Further, when students were asked who else they would report or would consider reporting the incident to, only 12.8% selected the I3 office out of a list of options (when they could select as many options as they wished). Students were more likely to select the University police (39%), the University's Sexual Assault Program (34.9%), family members (33%), the University's counseling center (29.1%), the East Lansing Police (31.1%), a friend/roommate (28.5%), a resident assistant (27.5%), Safe Place (24%), and the Olin Student Health Center (22%).

Similarly, the majority of students reported that they would be very likely (62%) or somewhat likely (32.7%) to report an incident of sex discrimination, sexual harassment, or sexual assault they witnessed involving another University student; however, when they were asked who they would first report the incident to, less than 1% reported that they would report the incident to the I3 office. When asked to identify who else they would report or consider reporting the incident to, only 10.6% selected the I3 office out of a list of options (when they could select as many options as they wished.)

When students were specifically asked if they were aware that the I3 office is a place they can go to report sexual discrimination, sexual harassment, or sexual assault, the majority (55.8%) said no. Only 7.4% of students were able to correctly identify the name of the University's Title IX Coordinator. In contrast, 71.5% of the students surveyed correctly identified the University's head basketball coach.³

- **Student A**

³ The University conducted a more comprehensive student climate survey in April 2015; however, the results are not yet available.

Student A alleged that the University discriminated against her based on her sex during the 2010-2011 academic year when it failed to respond appropriately after she reported that she was sexually assaulted by two male students in the campus dorms and when it failed to take appropriate action to address retaliatory harassment by the two male students. She also alleged that during that same year, the University retaliated against her for reporting the assault by taking actions to malign her character. OCR found that the last allegation regarding retaliation by the University was untimely filed. OCR generally will only take action with respect to complaint allegations filed within 180 days of the last act of alleged discrimination, unless a waiver of OCR's timeliness requirement is requested and granted. In this case, the complainants declined to request a waiver, therefore OCR did not pursue this retaliation allegation further.

Student A initially reported the sexual assault to the University police, but declined to file a sexual harassment complaint with the University. At that time, the University did not have a system for addressing potential Title IX harassment incidents without a formal complaint. As such, the University had not planned to take any further action with respect to this alleged incident of sexual assault. Through media reports, OCR became aware of the alleged sexual assault incident soon after it occurred; and also became aware of information suggesting that the University was not handling the matter consistent with Title IX. Thus, OCR offered technical assistance to the University regarding its Title IX obligations. The University then initiated an investigation of the alleged sexual assault of Student A.

An OCR complaint was filed on behalf of Student A in June 2011. According to the Complainants, the University did not respond appropriately to Student A's report that she had been sexually assaulted. The Complainants stated that although the University moved the male students' housing to prevent contact with Student A, it moved the male students to new campus housing, which seemed to reward the male students for their behavior. They also stated that the University's failure to terminate the male students' housing contracts was contrary to University protocol and was a failure to appropriately respond to Student A's report of sexual assault.

University personnel told OCR that Student A first reported that she was sexually assaulted when she went to a local hospital. They stated that Student A was met at the hospital by staff from the University's sexual assault program who gave Student A information on free counseling and advocacy services provided by the University, contact information for the campus police, and information about how to file a request with the University's student judicial system to have the male students' housing reassigned. Counseling center staff and a detective from the campus police helped Student A obtain a personal protection order (PPO) against the male students.

University staff stated that they met with the male students the day after the sexual assault was reported, and told them to avoid social gatherings and to have no contact with Student A. Student A did not file a complaint with the student judicial system requesting that the male students be disciplined or have their housing moved; however, within a few days, University staff moved the male students out of their dorm room where the alleged sexual assault occurred. According to staff, Student A was not informed of the move until four days after she reported the incident.

A few days after the report of the alleged assault, the county prosecutor's office announced that it would not press criminal charges against the two male students. Student A subsequently met with University staff from the University's sexual assault program and REHS and stated that she did not want to proceed with a judicial hearing against the male students. At that time, a judicial hearing was the only University process available for seeking disciplinary action against a student for student-on-student sexual harassment. According to staff, Student A's main concern was that she would see the male students in the residence hall where she lived. University personnel stated that they confirmed to Student A at that time that the male students were instructed not to enter that residence hall.

Court records provided by the University confirmed that Student A obtained PPOs against the two male students. The PPOs, which were in effect for one full year, prohibited the male students from following Student A; appearing at the workplace or residence of Student A; approaching or confronting Student A in a public place or on private property; communicating with Student A by mail or telephone; or threatening or injuring Student A. The PPOs did not prohibit the male students from: appearing within the sight of Student A; entering onto or remaining on property owned, leased or occupied by Student A; placing an object on or delivering an object to property owned, leased, or occupied by Student A; or purchasing or possessing a firearm. University officials stated that they met with the male students to ensure that they understood and followed the prohibitions contained in the PPOs.

Student A and University staff advocates wanted the male students to be formally evicted from their former residence hall in writing. REHS staff, however, decided that it was not necessary to pursue a contract hearing, which absent a formal complaint filed with the student judiciary by a student was the only procedure for obtaining a formal eviction of a student living in campus housing. According to REHS staff, the filing of a housing contract violation automatically triggers a student judicial hearing. In cases of sexual assault, the University's practice had been to temporarily move students pending the outcome of such a hearing; however, in the case of the alleged sexual assault that is the subject of Student A's complaint, no complaint with the student judiciary had been filed and no criminal charges had been filed. OCR obtained a list of all temporary housing reassignments that had been made in the 2010-2011 academic year, which included at least one other student accused of sexual harassment.

OCR found no evidence that the male students entered Student A's residence hall after they were moved. OCR also found that the male students were moved into the oldest of the apartment-style housing options offered to students and not into the University's new campus housing. These apartments were a significant walking distance from their classes and any cafeteria for which they had a meal plan.

Multiple University staff stated that they checked in with Student A in the weeks following the alleged sexual assault and offered support, counseling, a referral to the University's Safe Place, assistance in creating a safety plan, and a plan for studying and completing assignments on time. During the spring 2011 semester, Student A was provided assistance in requesting extra time for tests and assignments.

On October 22, 2010, after receiving technical assistance from OCR regarding its Title IX policies and procedures, the University hired an outside investigator to investigate whether the alleged sexual assault of Student A constituted a violation of its sexual harassment policy, even though Student A declined to file an official grievance. The University explained that the hiring of an outside investigator was a unique occurrence, and that this measure was taken because the University was implementing changes to its Title IX procedures and needed to train its I3 office staff to handle future investigations.

The University's Title IX Coordinator met with Student A in October 2010, to inform her that it would initiate an investigation into whether or not the University's sexual harassment policy had been violated. Student A was then advised by the Title IX Coordinator that she could have an attorney or advocate present during the investigation and she could identify witnesses or evidence for consideration. She was also told that the male students would be given the same opportunity to provide witnesses and evidence. The Title IX Coordinator also told Student A that the University has a policy prohibiting retaliation and that she should contact the Title IX Coordinator with any concerns regarding retaliation. She was told that the male students would also be advised of the anti-retaliation policy. Student A was also told that the goal was to complete the investigation in two weeks if possible, and that her interview could be conducted off campus if she preferred.

In November 2010, during the investigation, Student A encountered the two male students in a University building where all of the students studied. The two male students were sitting in a private tutoring room with their tutor. While the door was closed, Student A could see the male students through a glass panel in the door. Student A remained outside the male students' tutoring room for approximately 30 minutes. When the male students were finished with their tutoring session, they left the room and walked past her to exit the building. Student A called the police to report that the male students had violated their PPOs by not leaving the building when she entered it. Student A stated that the male students were supposed to stay 500 feet away from her, but that the police had told her that the 500-foot rule has exceptions. After this encounter, the male students were assigned to a specific study area in the building that was separate from Student A's study area and required them to use a separate entrance from the general student body.

On November 8, 2010, Student A provided the University police with a list of other times that she had seen one or both male students since the PPOs were issued. Student A's list stated that in October 2010 one or both male students had seen her on three different occasions while walking on the street and had walked past her rather than making any effort to stay away. She also alleged that the male students had seen her while eating in two of the University's dining halls on four different occasions in October 2010. She alleged that the male students would see her in the dining hall, make eye contact with her, and then continue eating without leaving. She alleged that on one occasion, one of the male students did not leave the dining hall after seeing her but rather put his hood up and looked away; and another time one of the male students did not leave even after making numerous eye contacts with her. Student A also alleged that she saw the male students on three other occasions in October and November 2010; but each time she saw the male students, they did not leave the area. According to a University police official and

other University personnel, the University police did not pursue any of these allegations because they determined that the male students had not violated the PPOs. Student A did not report any further encounters with the male students after their study area was moved in November 2010.

The outside investigator completed his investigation in December 2010. The investigator and the University's Title IX Coordinator met with Student A on December 19, 2010, and shared with her the conclusions in the investigator's report. The report concluded that the evidence did not support a finding that a violation of the University's sexual harassment policy had occurred, because the information gathered was insufficient to establish by a preponderance of the evidence that the sexual conduct was unwelcome.

OCR reviewed the entire investigative record generated by the independent investigator during the course of his investigation, which included his final written report; his memoranda of witness interviews he conducted; and documentary evidence he had obtained. According to the investigative file records, the investigation included interviews of all three students who were involved in the incident, along with the male students' suitemate who was the only third-party witness present that evening. The investigator also reviewed the forensic nurse examiner report conducted in the hospital emergency room where Student A was treated on the morning after the alleged sexual assault; drawings of the dormitory room where the incident happened; statements given to the police by Student A and one of the male students; a floor plan of the residence hall floor where the alleged assault took place; a written statement from Student A's friend who Student A called on the night of the incident and who accompanied her to the hospital and the police station that night; and a copy of the county prosecutor's public statement. The investigator's file also included written witness questions prepared by the investigator along with his handwritten notes from the interviews, follow-up questions he prepared for his second meeting with the students, the finalized written statements for each of the witnesses, and other records and notes showing the investigator's deliberative process. The investigator's notes showed, among other things, that he applied a totality of the circumstances analysis by weighing all of the facts he identified as supporting a finding that the sexual conduct was unwelcome against all the facts he identified which negated such a finding, to determine which conclusion was supported by a preponderance of the evidence. Also included in the investigative file were the investigator's notes of his review of OCR's Revised Sexual Harassment Guidance.

The investigator stated that he told the students that he wanted to complete the investigation as soon as possible, but did not give them any specific timeframes. He said he took handwritten notes of his interviews and then met with each student to review their statements. He gave the students an opportunity to add or correct any part of their statements prior to finalizing the statements. He said he interviewed the two male students before he interviewed Student A, because it was more difficult to arrange a meeting time that suited her and her attorneys. He gave all three students and their lawyers an opportunity to name additional witnesses or provide evidence, but they did not provide any additional information. He confirmed the statements in his report that in making his conclusions he considered the totality of the circumstances and used a preponderance of the evidence standard. The students were notified in person of the outcome of the investigation and given an opportunity to review the final written report. Student A's attorneys requested and were granted a copy of the written report, which was redacted to remove

personally identifying information. According to the investigator and the Title IX Coordinator, Student A's attorneys were provided information about pursuing the matter further through the University's student judicial process.

In the investigator's report, he quoted OCR's Revised Sexual Harassment Guidance regarding what constitutes unwelcome sexual conduct, stating that conduct is unwelcome if the student did not request or invite it and regarded the conduct as undesirable or offensive. He also set forth factors from OCR's Revised Sexual Harassment Guidance concerning making a determination about whether the preponderance of the evidence supported a conclusion that the sexual conduct was unwelcome. He indicated that he found the three students to be credible, but that they offered diametrically opposed positions as to whether the sexual conduct that all agreed occurred had been unwelcome. He laid out the factors he believed suggested that the sexual conduct was unwelcome and also the factors he found weighed against the activity being unwelcome. Based on the totality of the evidence, the investigator concluded that he could not find by a preponderance of the evidence that the conduct was unwelcome.

According to University records, once the University's investigation was completed, the male students were no longer confined to their limited study area, but they remained living at the older apartments for the remainder of the school year and they continued to refrain from entering the residence hall where Student A lived.

In light of the foregoing, with respect to Student A, OCR has concluded that the evidence is sufficient to support a finding that the University failed to respond promptly when Student A reported that she was sexually assaulted by two male students in a campus dorm room. Specifically, OCR determined that the University was first notified about the alleged sexual assault within a day of its occurrence, but it took the University weeks to initiate an investigation because its Title IX procedures at the time required, as a threshold matter, that the victim file an official complaint of sexual harassment and participate in a hearing, which Student A declined to do. After being advised by OCR that the University was required to make a prompt, thorough, and impartial inquiry into any allegation of sexual harassment of which it has notice, the University took steps to conduct such an inquiry, retaining a neutral outside investigator to investigate this matter. The actual investigation, once it was initiated by the University, took approximately 56 days to complete. The investigator spoke with Student A and her attorneys at least twice during those 56 days.

OCR's review of the outside investigator's investigative file showed that the investigator conducted a thorough and adequate investigation by considering all of the available evidence. The investigator's notes, and his statements to OCR, demonstrated that he relied on the totality of the circumstances and applied a preponderance of the evidence standard of proof when making his determination. As Student A never formally filed a complaint with the University, there was no evidence that the University informed Student A of any right to appeal the investigator's findings; however, as noted above, Student A and her attorneys were notified that Student A could file her own complaint with the University through its student judicial process.

OCR notes that, based on the investigator's report, he considered certain evidence regarding welcomeness that OCR found inappropriate. Nonetheless, OCR's review of the investigator's

report and his supporting documentation led OCR to conclude that the preponderance of the evidence did not support a finding that Student A was subjected to unwelcome sexual conduct that created a sexually hostile environment. Further, based on OCR's review, the University provided Student A with a resolution process comparable to OCR's.

OCR also found that the University took appropriate interim measures to protect Student A and prevent further harassment. Specifically, OCR's investigation established that the male students were moved out of Student A's dorm within two days of her reporting the alleged sexual assault to the University police, and they did not reenter the hall. The male students were not placed in the University's newer and more sought-after apartments as the Complainants alleged. Rather, they were placed in older apartments that were far away from Student A and from the main campus so as to minimize encounters between the students. Moreover, these interim measures were taken as soon as the allegations of sexual assault were made and prior to the University conducting an investigation. University personnel also assisted Student A in requesting and obtaining PPOs, and University officials met with the male students to ensure that they understood and followed the prohibitions contained in the PPOs. University personnel offered temporary housing to Student A through Safe Place, helped Student A develop a safety plan, and assisted her with any academic concerns. Student A reported to the police that she had seen the male students in a University building in a tutoring room and they made eye contact with her and did not leave; however, she did not allege any conduct by the male students that could be considered ongoing harassment or retaliation. Even so, once the University was notified that the students were encountering one another in this building, the University took immediate steps to ensure that Student A did not encounter the male students and she reported no further incidents. In light of the foregoing, the evidence supports a conclusion that the University took interim measures to protect Student A, and that the interim measures were reasonably calculated to prevent harassment from recurring.

The University determined through the outside investigation that no sexual harassment had occurred; thus, the University took no further corrective action. However, the evidence supports that the University took steps to ensure that Student A knew where to report any further harassment and that after the investigation was concluded she was made aware that she might see the male students on campus. The services provided by the University's sexual assault program remained available to Student A, the male students continued to live in housing away from the main campus, and the PPOs against the male students remained in place through the end of the school year.

Based on the foregoing, OCR determined that once the University initiated the investigation, it provided a thorough, impartial and equitable response to Student A's complaint; and OCR found insufficient evidence to conclude that Student A continued to be subjected to a hostile environment due to any failure on the part of the University to promptly investigate the complaint. OCR found insufficient evidence to support Student A's claim that the University failed to take sufficient action after she was subjected to alleged retaliatory harassment.

- **Student B**

Student B alleged that she was sexually assaulted by a male student in a fraternity house in the fall of 2012. She did not initially report the incident to the University. She stated that she subsequently sought assistance from the University's Sexual Assault Program, and learned that she could file a complaint with the University's I3 office. She stated that she went to the Sexual Assault Program to seek counseling, but they informed her that they had a long wait list.

She stated that she filed a complaint with the I3 office in February 2013. OCR obtained the University's investigative file; and based on documentation in the file, the I3 office learned about the alleged sexual assault involving Student B through REHS in the fall of 2012, and reached out to Student B in November 2012 and again in January 2013 by offering to meet with her to discuss resources available to her and a possible investigation by the University; however, at that time, Student B informed the I3 office that she did not want its assistance. As noted above, Student B ultimately filed a formal complaint with the I3 office in February 2013; however, the University's Title IX investigator did not attempt to contact the accused until over a month later when she sent him an e-mail regarding the allegation which also informed him that the University prohibits retaliation against anyone bringing a claim of sexual harassment or participating in a sexual harassment investigation. He did not respond. She attempted to contact him again twice in April 2013 via email, but he did not respond.

The Title IX investigator interviewed Student B, and permitted her to provide evidence and witnesses in support of her complaint. Student B identified a friend who had been with her on the day of the alleged incident and the Title IX investigator interviewed this witness. This witness was not with Student B when the alleged sexual assault occurred, but stated that she received a text from Student B after the incident in which Student B stated that something bad had happened. OCR noted that Student B visited a local hospital after the alleged sexual assault for an examination and treatment, and her medical records were part of the investigative file. Emails demonstrate that Student B asked about filing a complaint with the police, and the Title IX investigator informed her that she was free to do so, and that the I3 investigation would continue regardless of whether she filed with the police.

The Title IX investigator emailed her investigative report to both Student B and the accused male student in July 2013. The report found that the male student had violated the University's sexual harassment policy. Specifically, the report concluded that Student B gave a credible account of the alleged sexual assault; and because the male student had not responded to the Title IX investigator's attempts to reach him, and there were no other witnesses, the preponderance of the evidence established that the male student had engaged in unwelcome sexual contact with Student B that was sufficiently severe that it created a hostile environment and violated the University's sexual harassment policy. In her emails to Student B and the accused male student forwarding the report, she stated that they had one week to raise any comments or questions or to suggest modifications to the report.

Based on documentation in the investigative file, the accused male student emailed the Title IX investigator after receiving the report. He stated that he had not responded to the earlier emails because he believed they were spam. He stated that he remembered the day of the incident and that he wanted his account to be heard. However, the next day the accused male student emailed the Title IX investigator again and stated that he had no comment to make regarding

the incident, other than to state that he was not guilty. The Title IX investigator responded the same day, informing the accused male student that if he wanted to submit a response to the report, the Title IX investigator would consider it. The accused male student did not respond, and the investigator issued her final report in late July 2013.

The matter next went before the University's student judicial system and a hearing was scheduled to review the Title IX investigator's report. The accused student was informed that at the hearing, the hearing board would review the Title IX investigator's report and that the burden would be on the accused student to demonstrate that the Title IX investigator's finding was arbitrary and capricious, i.e., that the finding had no basis in fact or resulted from procedural error. The accused male student was notified of his right to bring witnesses to the hearing; however, as noted above, the hearing was just to review the Title IX investigator's report, not to rehear the facts. Thus, the accused student was informed that no new information or witnesses could be presented unless he demonstrated that he was not given an opportunity to present this information during the investigation.

The Title IX investigator asked Student B what level of involvement she wanted to have at the hearing. Specifically, she was told that she could have no involvement, she could be a co-complainant with the University, or she could write an impact statement. Student B chose to write an impact statement, but she did not otherwise participate in the hearing.

Due to a lack of available hearing board members, the ADP hearing did not take place until early November 2013. The University's Title IX Coordinator acknowledged that the University has struggled at times to find enough available trained hearing board members to hold hearings as quickly as they would like. The University's counsel informed OCR that during the 2013-2014 academic year, it trained alternate hearing board members to ensure sufficient hearing board members are readily available.

At the November 2013 hearing, the accused male student argued that the Title IX investigator's decision should be overturned because she did not consider his version of the events. However, the accused student admitted that on advice of counsel, he had declined to share his side of the story with the Title IX investigator when he was given the opportunity to do so.

On November 5, 2013, the ADP hearing board upheld the I3 office's investigation and issued sanctions recommending that the accused student be permanently removed from the University. The Title IX investigator notified Student B of the outcome via email that day, and notified her that the accused student would have five days to appeal. The accused student appealed the decision to the University Student Appeals Board on or about November 10, 2013. In his written appeal, he argued that the initial emails sent to him regarding the complaint had the subject line "Office of Inclusion" and gave him no indication of the nature or severity of the matter. He stated that he receives many general emails from the University. He argued that when he received notice of the charges, he did not respond on advice from counsel, but argued that he should have an opportunity to respond in detail to the charges. He argued that the charges were false. He also argued generally that the sanctions imposed were inappropriate. According to the University, sanctions do not take effect while appeals are pending.

Based on documentation provided by the University, the Student Appeals Board can only overturn the hearing board's decision where the information presented does not support the decision reached by the hearing board, or the sanction the hearing board imposed; applicable procedures were not followed; or there was a conflict of interest. The accused male student alleged that he had not been properly notified of the allegations, had not been permitted to present his case, and that the sanction imposed was inappropriate. On November 27, 2013, the Student Appeals Board upheld the original sanctions, finding that the accused male student was given an opportunity to provide his side of the case but chose not to. The letter further stated that the Student Appeals Board did not find that the appeal was sufficient to support changing the original hearing board decision.

The accused male student filed another appeal, raising the same arguments, to the Vice President of Student Affairs on December 5, 2013. Pursuant to the University's procedures, the Vice President can only overturn the Student Appeals Board decision where the information presented at the appellate hearing did not support the decision reached by the Student Appeals Board or the information presented at the hearing did not support the sanction imposed, or applicable procedures were not followed or there was a conflict of interest.

The Vice President of Student Affairs issued a final written decision to the accused student upholding the original decision and sanctions and officially implementing his dismissal from the University on January 10, 2014, nearly a year after Student B filed her original complaint. Emails in the file demonstrate that the University kept Student B informed in writing regarding the status of the appeals and the outcome of those appeals.

Student B stated that she was satisfied with the University's decision on her complaint, but was not satisfied with the time it took to fully resolve it. Student B told OCR that she would go for long periods of time without hearing anything about her complaint from the I3 office, and that she would have to seek updates herself; however, she also stated that the Title IX investigator was helpful and would answer her questions. E-mails in the University's file show that the Title IX investigator provided Student B with a copy of the I3 investigative report; and provided her with information regarding the hearing and appeal dates as well as the outcomes of those proceedings. The emails also demonstrate that the Title IX investigator promptly responded when Student B requested updates regarding the status of her case. Student B stated that while the investigation and appeals were ongoing, she worried that the respondent was on campus and that she might run into him at any time. However, Student B acknowledged that she suffered no additional harassment from the accused student while her complaint was processed by the University.

With respect to interim measures for Student B, the Title IX investigator recalled that she offered Student B services such as changes to her schedule and counseling, which Student B declined. She stated that she asked Student B if she and the male student shared any classes or lived at the same dorm, and Student B responded that they did not. She stated that she provided Student B with contact information for the police, and emails in the file confirm that she informed Student B that the I3 office would continue its investigation if she filed with the

police. Further, she stated that Student B's friend accompanied her to meetings with the Title IX investigator to provide support, and missed a class as a result; and the Title IX investigator offered to help her get an excused absence for the class.

With respect to counseling, Student B stated that by the time she filed the complaint with the University she was already seeing a private counselor, but that she did receive group counseling through the University. Based on information and documentation provided by the University and Student B, the University also provided Student B with certain academic assistance as an interim measure.

Student B stated that the University agreed to tell the respondent to stay away from her, and he did, but she had to ask for this interim measure; the University did not offer it. As noted above, she stated that she was not subjected to any additional incidents of sexual harassment during the time that her complaint was processed.

Based on the information above, OCR concluded that the University did not provide Student B with a prompt grievance process. Student B filed her formal complaint with the University on February 2013. The University's Title IX investigator did not attempt to contact the respondent until late March 2013. Further, the entire complaint process, including appeals, was not completed until January 2014, nearly a year after the complaint was filed. As noted above, the sanctions imposed on a student found responsible for sexual harassment do not take effect until all appeals are exhausted. Based on the documentation in the file, the delays were due in part to the University's inability to get in touch with the accused male student, which according to him, was because the subject line of the University's e-mails gave him no indication that a complaint had been filed against him. OCR confirmed this by looking at the e-mails to the accused student in the investigative file. Further delays were caused by the University's inability to put together a hearing board and by the multiple appeals filed by the accused student.

OCR finds that the University's investigation, however, was thorough, impartial and equitable. After reviewing the Title IX investigator's report and investigative file, OCR finds that the evidence was sufficient to support the Title IX investigator's finding. Specifically, the conduct described by Student B was unwelcome conduct of a sexual nature that was sufficiently severe to create a sexually hostile environment. OCR also finds that the ADP hearing and the subsequent appeals, though not prompt, were impartial and equitable.

In summary, OCR finds that the University did not provide Student B with a prompt grievance process regarding her Title IX complaint; however, OCR finds that the investigation itself was thorough, impartial and equitable, and that the subsequent hearings and appeals were impartial and equitable.

- **Complaints of sexual harassment filed under the University's grievance process**

According to the Clery Act statistics outlined in the Office of Postsecondary Education's Campus Safety and Security Data Analysis Cutting Tool, in 2011, the University reported 15 forcible sexual offenses on campus, 13 of which happened in campus housing. It reported no off

campus forcible sexual offenses and one forcible sex offense on public property. In 2012, the University reported 20 forcible sex offenses, 15 of which occurred in campus housing. It also reported one off campus forcible sex offense, and one forcible sex offense on public property. In 2013, the University reported 27 forcible sex offenses on campus, 23 of which occurred in campus housing. It also reported three off-campus forcible sex offenses. It reported no forcible sex offenses on public property.⁴

OCR reviewed the University's grievance files related to complaints of sexual harassment, sexual assault and sexual violence filed with the University by students and staff during the 2011-2012, 2012-2013 and 2013-2014 academic years. In total, OCR reviewed approximately 150 case files. OCR found significant concerns regarding 30 of the files and selected those files for further evaluation. After reviewing those files, OCR identified the following concerns:

- In cases that went to a hearing, and/or were appealed, OCR found that complainants had to wait months, and at times close to a year, before they received a final resolution of their complaint. Further, the sanctions imposed, such as a dismissal from the University, did not take effect until after all of the appeals were exhausted; thereby creating the potential for additional acts of harassment or retaliatory harassment during the delay.
- OCR found a number of other files where the University failed to provide a prompt response, and others where OCR was unable to determine the timeframe within which the University responded due to a lack of documentation in the file.
- A significant number of the files contained no investigative report and/or otherwise lacked information regarding whether an investigation was completed, whether the University ever issued findings and/or the reasons for those findings. In some of these cases, the University had been notified of the identity of an individual accused of sexual harassment or sexual assault, but the file contained no documentation to support that the University followed up on that information.
- OCR noted a few instances where the University failed to take sufficient action against an individual accused of or suspected of engaging in sexual harassment, who was then accused of the behavior again. The most troubling example of this was a University counselor who allegedly sexually harassed students who sought counseling services after being sexually assaulted. The University received a complaint about this counselor, but initially took no action against the counselor until additional complaints were filed. Staff had noticed inappropriate behavior by this counselor in the past, but had not immediately reported those concerns to the I3 office.

⁴ In reporting incidents that occurred on public property the University added the following caveat: "We did not receive usable data from all of the Local Law Enforcement Agencies that have jurisdiction over the geographic locations for which we report. One Local Law Enforcement Agency advised that it could not separate our Clery reportable Public Property from other areas within its patrol jurisdiction; therefore no data from that Agency is included in the above report. In the spirit of full disclosure, listed below are the statistics that it reported: 2 Forcible sex offenses...."

- Many of the files contained little or no information regarding interim measures and assistance offered or provided to the alleged victims.
- Many of the files lacked documentation to support that the parties were provided the right to present evidence or witnesses.
- The majority of the files lacked documentation to support that the parties were provided with written notice of the outcome of the investigation.
- The majority of the files gave no indication that the complainants were given any opportunity to appeal the outcome or the remedies.
- The majority of the files lacked documentation to support whether any action was taken after any investigation had been completed to prevent recurrence of the harassment and to remedy the effects, if any, on the complainants.

OCR identified two cases in which the University's files reflect the University's inappropriate application of the standard for sexual harassment. The first case involved an employee who reported being repeatedly subjected to sexual harassment by another employee. The I3 office investigated the matter by interviewing the two employees and one of their co-workers. The Title IX investigator also reviewed emails between the two employees. The Title IX investigator concluded that the preponderance of the evidence supported that the accused employee had engaged in the conduct the reporting employee described, which the investigator characterized in the report as "consistent, unwelcome romantic pursuit." The University concluded that the accused employee had engaged in unwelcome conduct of a sexual nature towards the reporting employee, but concluded that the conduct was not severe enough to constitute sexual harassment because it was not physical, the reporting employee was in a more powerful position than the accused employee, and the conduct only went on for a few months. This determination was made despite the report's characterization of the accused employee's emails to the reporting employee as "consistent unwanted romantic pursuit which is specifically recognized as a type of sexual harassment." The determination was also made despite the reporting employee's statements regarding how upsetting the conduct was and how it significantly affected the reporting employee's work; and despite the fact that the Title IX investigator found the reporting employee's account regarding how it impacted the reporting employee's work environment to be credible. Despite this information, the Title IX investigator found no violation of the University's sexual harassment policy. Further, based on the documentation in the file, it was unclear whether the University took appropriate interim measures to protect the reporting employee.

Based on the documentation in the file, while the investigation was thorough and prompt, OCR concluded that the University's conclusion was not supported by its investigation, as the information the University provided indicates that the reporting employee was subjected to a sexually hostile environment. OCR has concluded that the University should have taken additional actions to remedy the effects on the reporting employee. While the documentation is sufficient for OCR to conclude that the reporting employee was subjected to a sexually hostile environment, OCR was unable to conclude whether the reporting employee continued to be

subjected to a sexually hostile environment due to the lack of documentation in the file. In the attached resolution agreement, the University has agreed to provide individual remedies to the affected employee.

The University's files regarding two separate complaints filed against another employee also reflect inappropriate application of the standard for sexual harassment. This employee was accused on multiple occasions, by different employees, of making sexual comments and engaging in inappropriate touching. The first complaint file was opened around April 2011. The complaint was made by a female employee who reported that the accused employee had made sexual comments to her and had engaged in inappropriate touching. Based on what appears to be a draft investigative report, dated May 2011, during the University's investigation, three witnesses reported that while they did not see the incidents reported by the female employee, they had seen the accused employee engaging in similar behavior. Further, the report indicated that the accused employee had been accused of similar behavior on two prior occasions by other employees when he worked in two different positions at the University. Despite this, the University determined that the accused employee's behavior did not rise to the level of sexual harassment; and concluded that his behavior was unprofessional and recommended that his conduct "be addressed in a way that prevents any further occurrences, such as relocation..." Based on information contained in a separate 2012 complaint file regarding the accused employee (which is discussed below) it appears that the University completed an investigation into the 2011 case, but there is no final investigative report in the file for this case or written notice of the outcome of the investigation.

Another complaint was filed against the same employee in April 2012, at which point he was working in a different position at the University. The complaint was filed by a fellow employee, who reported that the accused employee engaged in inappropriate touching. A second employee came forward and reported that the accused employee had engaged in similar conduct towards her. Witnesses confirmed observing some of the behavior, and one of the witnesses recalled the accused employee making sexual comments to him on two occasions. In an undated investigative report, the University concluded that the accused employee likely engaged in the alleged conduct, which while sexual and unprofessional, did not rise to the level of sexual harassment. The investigative report did not indicate whether the University took any further action. In the investigative report, the University referenced the 2011 complaint and discussed the sanctions the respondent received for that conduct, which included a 30-day suspension; a transfer to a different position; and training on the University's conduct policies and on prohibited harassment. OCR has insufficient information to determine if the investigation into this second complaint was prompt. It is unclear whether the University took appropriate interim measures to protect the complainants. There was insufficient documentation of the discipline or remedies the University implemented. In the most recent report from 2012, the Title IX investigator noted that the male employee did not seem to take the allegations seriously.

In sum, OCR concludes the files strongly indicate that a number of employees were subjected to a sexually hostile environment as a result of the accused employee's actions. Further, the University's documentation suggests that the sexually hostile environment continued as a direct

result of the University's failure to adequately address his behavior. In light of this, in the attached resolution agreement, the University has agreed to provide individual remedies to the affected employees.

In reviewing all of the above-referenced grievance files, OCR did not seek additional documentation nor did OCR interview any witnesses regarding these specific complaints. However, in reviewing the University's grievance files, OCR found a number of cases where the information available supported that the complainants were subjected to a sexually hostile environment and that the University's failure to respond appropriately might have led the complainant or others to continue to be subjected to a sexually hostile environment. One of the more troubling examples of peer on peer assault involved a case where a female student reported being raped by a male student in early 2012. While the female student gave an initial interview to the Title IX investigator, she subsequently failed to respond to contacts from the I3 office, which therefore closed her case without an investigative report. Information in the file supports that the University was notified of the identity of the male student and was provided with information that he had sexually harassed four other University students. However, there is no information in the file to support that the University took any action regarding this information, thus potentially subjecting the initial complainant, as well as other students, to further sexual harassment by the male student. As noted above, however, the University's grievance files often appeared incomplete; thus, the University could have taken additional action that was not documented.

Conclusion

OCR determined that while the University has designated a Title IX Coordinator, it does not have an appropriate notice of nondiscrimination that complies with the requirements of 34 C.F.R. § 106.9(a) and did not, in conjunction with the notice of nondiscrimination, appropriately notify students and employees of the identity of the Title IX Coordinator as required by 34 C.F.R. § 106.8(a). Further, OCR determined that during the time period relevant to the above-referenced complaints, the University did not have prompt and equitable Title IX grievance procedures as required by the Title IX regulation at 34 C.F.R. § 106.8(b).

OCR also determined that the University failed to provide a prompt and equitable response to complaints of sexual harassment, sexual assault and sexual violence filed by Student A, Student B, and other students and employees, as Title IX requires. OCR found insufficient evidence to conclude that Students A or B continued to be subjected to a sexually hostile environment as a result of the University's failure to provide them with a prompt and equitable response to their complaints. OCR found insufficient evidence to support Student A's claim that the University failed to take sufficient action after she was allegedly subjected to retaliatory harassment by the accused students.

Additionally, there was information in many of the other grievance files that OCR reviewed to support that the complainants were subjected to a sexually hostile environment and in some cases there was information to support that the University's failure to respond appropriately might have led the complainant or others to continue to be subjected to a sexually hostile environment. Further, in two of the grievance files OCR reviewed, both of which involved complaints of

sexual harassment filed against University employees, OCR determined that the files reflected flawed analysis. In these cases, the University's own documentation strongly supported that a sexually hostile environment existed. In one of these cases, the University's documentation supported that the University's failure to respond adequately to initial complaints regarding an employee's behavior, and the employee's continued additional acts of harassment after the University failed to adequately address his behavior, led to a continuing hostile environment for a number of other employees.

Taking into account all of the evidence gathered during the investigation, OCR determined that a sexually hostile environment existed for and affected numerous students and staff on campus at the University during the time period of OCR's investigation, and that the University's failure to address complaints of sexual harassment, including sexual violence, in a prompt and equitable manner caused and may have contributed to a continuation of this sexually hostile environment. In making this determination, OCR considered information it obtained from the University's grievance files. In addition, OCR considered the information it obtained from the students and staff OCR spoke with as part of its onsite visit, including focus groups and walk-ins, as well as individuals who contacted OCR after the onsite. OCR also considered the results of a freshman and transfer student survey the University conducted on issues involving sexual harassment and sexual assault in the spring of 2014.

Since OCR opened its investigation of these two complaints, the University has taken significant action to address OCR's concerns, such as hiring more Title IX investigative staff, developing MOUs with local police and implementing a campus wide awareness campaign against sexual assault, but additional steps must be taken. OCR has included such additional remedies in the attached resolution agreement to address the compliance issues it identified with respect to Title IX.

Resolution Agreement

On August 28, 2015, the University provided OCR with the enclosed, signed resolution agreement, which once fully implemented, will address the Title IX compliance issues OCR identified during its investigation.

Under the terms of the Agreement, the University will:

- Revise its notice of non-discrimination and publicize the revised notice.
- Issue a public anti-harassment statement notifying all members of the University community that the University does not tolerate sexual harassment and encouraging students to report any such incidents to the Title IX Coordinator.
- Revise, and following OCR review and approval, implement and publicize its Title IX complaint procedures and other procedures to comply with Title IX.
- Train staff on the revised Title IX complaint procedures to ensure the University community understands the University's obligations under Title IX and how to properly conduct and document future Title IX investigations.
- Provide mandatory training to its students regarding the role and duties of the I3 office and the Title IX coordinator; what constitutes sex discrimination, sexual harassment and

sexual assault and how to report such incidents; the University's definition of consent for sexual conduct; the University's prohibition against sexual harassment; the University's revised Title IX policies and procedures; consequences for violating the University's Title IX policies; and resources available to students.

- Review and revise any and all training materials used to train student athletes with respect to matters involving sex discrimination, sexual harassment, and sexual assault (e.g., Branded a Spartan materials), and to ensure that these provide a correct definition of consent; strongly encourage the reporting of incidents of sexual harassment, sexual assault and sexual violence; and otherwise comply with the University's revised Title IX policies and procedures.
- Develop a memorandum of understanding with the University police, and revise the memoranda of understanding with the East Lansing police and other local law enforcement agencies that outlines how they will coordinate with the University to ensure such complaints are properly addressed and to ensure that alleged victims are adequately informed of their rights.
- Provide training to the University police on how to interview and interact with alleged victims in a manner that is sensitive and respectful.
- Assess its Title IX investigative staff and counseling staff to determine whether the University has adequate staff to adequately process Title IX complaints in a timely manner and provide counseling services.
- Create a committee (Sexual Violence Advisory Committee or "SVAC") comprised of representatives from faculty, staff, the undergraduate and graduate student bodies and appropriate administrative offices that will meet at least twice a semester to identify strategies for: (a) ensuring that students understand their rights under Title IX and how to report possible violations of Title IX and (b) the prevention of sexual harassment, sexual assault and sexual violence incidents, including outreach and educational activities.
- Conduct a series of student and employee climate checks over the next three academic years to assess the effectiveness of steps taken pursuant to this Resolution Agreement, or otherwise by the University, to provide a campus free of sex discrimination and harassment; in particular sexual assaults and sexual violence
- Develop a monitoring program to assess the effectiveness of the University's overall anti-harassment efforts.
- Examine past grievance files and evaluate, using procedures revised pursuant to this agreement, whether it properly handled those grievances and whether any additional action or remedies are warranted.
- Further, pursuant to the agreement the University has invited the complainants in two of the grievance files OCR reviewed to meet with the University to discuss possible remedies, as OCR found the University applied Title IX's legal standards improperly when determining that these complainants were not subjected to a sexually hostile environment.
- Contact Student A and Student B and notify them of the changes to the University's Title IX policies and offer them remedies to address any harm incurred as a result of the University's delay in processing their complaints.
- Evaluate the safety of certain areas of campus, including the area surrounding the River Walk trail to ensure the areas have sufficient lighting and emergency phones.

OCR will monitor the University's implementation of the resolution agreement. If the University fails to implement the agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms or obligations of the agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce the Agreement, OCR shall give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This letter should not be interpreted to address the University's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination with respect to these cases. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainants may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the complainants may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Should you have any questions, please contact OCR attorney Brenda Redmond at (216) 522-2667 or at Brenda.redmond@ed.gov.

Sincerely,

/s/

Meena Morey Chandra
Director

Enclosure